

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEW JERSEY CARPENTERS HEALTH	:	Civil Action No. 1:08-cv-08093-LTS
FUND, et al., on Behalf of Themselves and All	:	
Others Similarly Situated,	:	<u>CLASS ACTION</u>
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
STRUCTURED ASSET MORTGAGE	:	
INVESTMENTS II INC., et al.,	:	
	:	
Defendants.	:	
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PENSION TRUST FUND FOR OPERATING	:	Civil Action No. 1:09-cv-06172-LTS
ENGINEERS, Individually and on Behalf of	:	
All Others Similarly Situated,	:	<u>CLASS ACTION</u>
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
STRUCTURED ASSET MORTGAGE	:	
INVESTMENTS II INC., et al.,	:	
	:	
Defendants.	:	
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MEMORANDUM OF LAW IN FURTHER SUPPORT OF THE APPOINTMENT OF
PENSION TRUST FUND FOR OPERATING ENGINEERS AS LEAD PLAINTIFF AND
FOR APPROVAL OF ITS SELECTION OF COUNSEL AS LEAD COUNSEL

Plaintiff Pension Trust for Operating Engineers (“Operating Engineers”), which filed a complaint in one of the above-referenced actions, respectfully submits this memorandum of law in further support of its appointment as a lead plaintiff and approval of its selection of lead counsel.

As set forth on the certification attached to its complaint, Operating Engineers is the only investor who “filed [a] complaint or made a motion in response to a notice,” 15 U.S.C. §77z-1(a)(3)(B)(iii)(I)(aa), that acquired the Mortgage Pass-Through Certificates of Structured Asset Mortgage Investments II, Series 2006-AR7. As such, it is the only investor who has standing to pursue a claim for other similarly situated investors. *See Hoffman v. UBS-AG*, 591 F. Supp. 2d 522, 530-31 (S.D.N.Y. 2008) (“Plaintiffs in this case cannot meet the injury requirement for claims relating to funds in which they have not purchased shares because they cannot claim to be personally injured by the violations relating to those funds”). Since conflicts between investors of different Certificates may arise even prior to class certification, “the interests of the class can be protected by the appointment of a co-lead plaintiff.” *In re Deutsche Bank AG Sec. Litig.*, No. 09-CV-1714(DAB), 2009 U.S. Dist. LEXIS 110281 (S.D.N.Y. Nov. 23, 2009) (quoting *Freudenberg v. E*Trade Financial Corp.*, 07 Civ. 8538, 2008 WL 2876373, *7 (S.D.N.Y. July 15, 2008)).

Accordingly, Operating Engineers respectfully requests that it be appointed as a lead plaintiff for investors who acquired the Mortgage Pass-Through Certificates of Structured Asset Mortgage Investments II, Series 2006-AR7 and that its selection of Coughlin Stoia Geller Rudman & Robbins LLP as lead counsel for such claims be approved.

DATED: November 30, 2009

COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
SAMUEL H. RUDMAN
DAVID A. ROSENFELD
MARIO ALBA JR.

/s/ David A. Rosenfeld

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[Proposed] Lead Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I, David A. Rosenfeld, hereby certify that on November 30, 2009, I caused a true and correct copy of the attached:

MEMORANDUM OF LAW IN FURTHER SUPPORT OF THE
APPOINTMENT OF PENSION TRUST FUND FOR OPERATING
ENGINEERS AS LEAD PLAINTIFF AND FOR APPROVAL OF ITS
SELECTION OF COUNSEL AS LEAD COUNSEL

to be served electronically on all counsel registered for electronic service for this case.

 /s/ David A. Rosenfeld
David A. Rosenfeld